

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
<i>Computer III</i> Further Remand Proceedings:)	CC Docket No. 95-20
Bell Operating Company)	
Provision of Enhanced Services)	
)	
1998 Biennial Regulatory Review --)	CC Docket No. 98-10
Review of <i>Computer III</i> and ONA)	
Safeguards and Requirements)	

COMMENTS OF QWEST CORPORATION

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April 16, 2001

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SUMMARY

In this docket the Commission seeks to refresh the record in the ongoing proceeding involving the open network architecture and comparably efficient interconnection rules which govern the manner in which the former Bell Operating Companies and GTE (now merged with Bell Atlantic to form Verizon) offer basic telecommunications services to competing providers of enhanced services and to their own enhanced service operations. To a large extent it appears that the questions in the Public Notice requesting these comments are addressed to enhanced service providers, not to exchange carriers providing telecommunications services to enhanced service providers (we generally use the terms “enhanced service providers” and “information service providers” interchangeably in this filing). The Commission wishes to determine whether the current open network architecture/comparably efficient interconnection regulatory structure is working. Qwest is a major provider of enhanced services throughout the United States. On review of the questions in the Public Notice, it appears that Qwest is being served reasonably by LECs from whom it is purchasing basic telecommunications components for its enhanced services.

From Qwest’s LEC perspective, Qwest is of the opinion that its service to enhanced service providers is reasonable, timely and non-discriminatory. The services which Qwest offers to enhanced service providers are priced reasonably and competitively, and are used by Qwest’s own enhanced service operations in accordance with Qwest’s filed comparably efficient interconnection plans. There is clearly no reason to re-regulate Qwest’s enhanced service offerings or to make the existing regulations more burdensome. In fact, as the Public Notice suggests, it is time to seriously reevaluate the necessity of the burdensome open network

architecture reports (annual and semi-annual) which are filed by Qwest and the other divested Bell Operating Companies.

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COMMENTS OF QWEST CORPORATION

Qwest Corporation (“Qwest”) hereby files its Comments in response to the Federal Communications Commission’s (“Commission” or “FCC”) March 7, 2001 Public Notice in the above-captioned dockets.¹

INTRODUCTION

In the Public Notice the Commission asks for additional information on how recent developments in the information/enhanced² services marketplace should impact on decisions by the Commission in the ongoing Open Network Architecture (or “ONA”) docket. This docket

¹ See Public Notice, Further Comment Requested to Update and Refresh Record on *Computer III* Requirements, CC Docket Nos. 95-20 and 98-10, DA 01-620, rel. Mar. 7, 2001. The due dates for Comments and Reply Comments regarding this matter were triggered with the publication of the Public Notice in the Federal Register on March 15, 2001.

² Because the ONA rules use the term enhanced services, and the Telecommunications Act of 1996 (“1996 Act”) uses the term information services, to refer to a group of computer-supported services which, in the context of this proceeding are essentially identical, we will generally use the term “enhanced services” when talking about ONA, and “information services” when talking about the 1996 Act. However, unless otherwise specified, the terms mean exactly the same thing in this filing and are used here interchangeably. When we use the acronym “ISP,” however, we

was initiated by the Commission in response to the 1994 decision of the Ninth Circuit Court of Appeals in California v. FCC,³ which vacated the FCC's determination to replace the structural separation rules applicable to Bell Operating Company ("BOC") provisioning of enhanced services in place of non-structural safeguards. The Court determined that the FCC had failed to adequately consider whether the unbundling required by ONA would adequately protect competitive providers of enhanced services against discriminatory provisioning of essential network elements in favor of the BOC's own enhanced services.⁴ Following the Court's decision, the Commission determined to treat BOC provision of non-structurally separate enhanced services on a case-by-case basis through the filing of what are called comparably efficient interconnection ("CEI") plans. These CEI plans deal with how the BOCs' non-structurally separate enhanced services were to inter-operate with the BOCs' basic network services. ONA, as a regulatory structure, governs how BOCs are to deal with competitive providers of enhanced services. Together, these two sets of rules have governed BOC provision of enhanced services on an integrated basis since the FCC's first waiver decision in response to the Court's second vacation of the elimination of the structural separation rules in California v. FCC.⁵

are referring to a particular type of enhanced or information service provider, an "Internet Service Provider."

³ People of State of Cal. v. FCC, 39 F.3d 919 (9th Cir. 1994).

⁴ *See id.* at 929-30, 933. Under current law, open network architecture applies only to the divested Bell Operating Companies and GTE (which means that ONA applies today to Verizon, Qwest, SBC and BellSouth). *See In the Matters of: Amendment of Sections 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry), Report and Order*, 104 FCC 2d 958 (1986); *In the Matter of Application of Open Network Architecture and Nondiscrimination Safeguards to GTE Corporation, Report and Order*, 9 FCC Rcd. 4922 (1994).

⁵ *See In the Matter of Bell Operating Companies Joint Petition for Waiver of Computer II Rules, Order*, 10 FCC Rcd. 13758 (1995).

The Commission's efforts to deal directly with the Court's decision were diverted in early 1996 by the passage of the Telecommunications Act of 1996,⁶ which provided a different unbundling scheme for services and facilities provided by all incumbent local exchange carriers ("ILECs") (not just the BOCs) to telecommunications service providers.⁷ Hence, in addition to the docket on remand from the Court which the Commission initiated in 1995, the Commission commenced a separated docket to examine the impact of the 1996 Act on BOC provision of enhanced services without structural separation in 1998.⁸ Both of these dockets are consolidated here.

As we read the Public Notice, it is focused mostly on whether competitive enhanced service providers are able to purchase from BOCs and other local exchange providers necessary inputs for their enhanced services under the existing regulatory regime, or whether additional regulatory action is warranted. The Commission significantly reduced the burdens of comparably efficient interconnection regulation in February of 1999,⁹ and granted what appears to be substantial marketing relief in a Report and Order released on March 30 of this year.¹⁰ We do not here challenge the premise of this docket that ILECs provide essential inputs for enhanced

⁶ Pub. L. No. 104-104, 110 Stat. 56 (Feb. 8, 1996).

⁷ These rules are generally based on Sections 251(b) and (c) of the Communications Act, as amended.

⁸ See In the Matter of Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services; 1998 Biennial Regulatory Review -- Review of Computer III and ONA Safeguards and Requirements, Further Notice of Proposed Rulemaking, 13 FCC Rcd. 6040 (1998).

⁹ See In the Matter of Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services; 1998 Biennial Regulatory Review -- Review of Computer III and ONA Safeguards and Requirements, Report and Order, 14 FCC Rcd. 4289 (1999), *on recon.*, 14 FCC Rcd. 21628 (1999).

¹⁰ See In the Matter of Policy and Rules Concerning the Interstate, Interexchange Marketplace, Report and Order, FCC 01-98, rel. Mar. 30, 2001.

service providers seeking to serve residential and small business customers.¹¹ With several exceptions, in these Comments we describe Qwest's efforts to comply with its ONA and CEI obligations to the extent that this information is called for in the Public Notice. Qwest is convinced that its efforts to serve enhanced service providers as customers whose business Qwest desires to nurture and to keep provide the economic motivation which ensures that enhanced service providers are well-served, and that additional regulatory directives on ONA or CEI are not necessary. Moreover, Qwest as a provider of enhanced services outside of the fourteen states where Qwest is an ILEC, has generally found that ILECs are providing necessary ONA services in a reasonable and timely manner. Should enhanced service provider comments indicate that this assumption is incorrect, Qwest will address any issues which may be raised in Qwest's Reply Comments.

We organize these Comments around several questions stated in the Public Notice:

1. Whether the Computer III non-structural safeguards, as implemented in service-specific comparably efficient interconnection plans, have been effective in preventing anti-competitive ILEC/BOC behavior?

¹¹ We continue to be troubled by the fact that, in the critical area of Internet access, the dominant players -- cable modem service providers such as AT&T Corp. -- are for some reason left out of the equation altogether, and the FCC's rules continue to act as if cable modem services did not exist at all. Once the FCC addresses the utter necessity of parity of regulation of ILEC Internet access services and cable Internet access services, the possibility of real regulatory reform will become meaningful. Until then, much of the regulatory response to Internet access regulation and market reality will be largely predicated on assumptions which are not accurate. However, for purposes of these Comments we recognize that the FCC has thus far permitted cable modem service providers to close their networks in a manner which drives most Internet service providers to ILECs for access to customers. In addition, of course, many other enhanced services are designed to work with traditional telephone service and, at least at this time, cannot be meaningfully offered to the public over a cable network. Hence, in this docket we address the *Computer III* issues within the regulatory structure which has prompted the docket -- including the assumption that enhanced service providers need access to ILEC services in order to provide their own services.

Qwest has available on its WEB site a total of nine CEI plans. The nine Qwest CEI plans are titled:

- Audiotex Services allows customers to utilize their telephone to interact with voice information contained within Qwest computers;
- Electronic Messaging Services. Electronic provide customers an array of services most generally considered under the category “E-Mail”, and include electronic mail service, electronic message transfer service, and electronic data interchange;
- Enhanced Facsimile Services provide the customer with a wide range of facsimile (“FAX”) capabilities which enable customers to communicate via FAX beyond the traditional send/receive only mode;
- Internet Access Services provide customers the ability to access the internet, which is a worldwide system of computer networks, with functions such as browser, information content, web page storage space and protocol processing;
- On-Line Database Access Services allow customers to store, retrieve and manipulate data stored in Qwest computers;
- Payphone Services provide site providers with three types of payphone service: Public Telephone Service, Semi-Public Telephone Service and Shared Payphone Service, and Inmate Service;
- Protocol Processing Services allows customers to use Qwest’s network access services to transport data originated from customer premises equipment (“CPE”), including computers, even though the CE may employ different communications protocols;
- Sales Agent for Unaffiliated Alarm Monitoring Service Providers , alarm monitoring services are designed to detect many common types of intrusion and emergency situations, sound and audible alarm, and report the condition to an alarm monitoring service provider. Qwest would act as a sales agent for the unaffiliated alarm monitoring service providers doing business within the Qwest 14-state region; and
- Voice Messaging Services allows customers to leave, direct and retrieve voice messages.

The above CEI Plans can be viewed on Qwest's Web Site at www.qwest.com/about/policy/docs/cei.html. Whenever a change is required to an existing CEI Plan or a new CEI plan is required, Qwest posts the changes or the new CEI Plan on its web site and then files a letter with the Commission identifying the changed or new CEI Plan and stating when it was placed on Qwest's web site.

These plans describe Qwest's enhanced services and the basic services on which they rely. The plans also describe Qwest's compliance with the FCC's comparably efficient interconnection parameters. Qwest's internal operating procedures check its offering of each enhanced service against the commitments made in the CEI plans. Thus these CEI plans offer a good roadmap of how Qwest actually offers its own enhanced services and how it complies with the FCC's rules governing such offerings.

We note here that some parties on the record earlier in this proceeding have contended that BOCs should be required to offer enhanced services through what is called a fully separate subsidiary (a "*Computer II* subsidiary"). Qwest has placed substantial evidence on the record in this proceeding demonstrating that a separate subsidiary requirement for enhanced services by BOCs would cause tremendous inefficiencies and losses to the public.¹² Should the separate subsidiary issues still be alive, it is critical that the Commission examine this evidence in detail before acting.

2. Whether ONA unbundling is still necessary in light of the unbundling required by section 251 of the Act?

¹² See, e.g., Comments of U S WEST, Inc., filed on Apr. 7, 1995, In the Matter of Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services, at 2-13 (Erratum to Comments filed on Apr. 10, 1995); Comments of U S WEST, Inc., filed herein on Mar. 27, 1998, at 9-14.

ONA unbundling is quite different from the unbundling required under Section 251 of the Telecommunications Act of 1996 (primarily Section 251(c)). ONA unbundling requires the unbundling of BOC telecommunications services in order that these wholesale services can be optimally incorporated into an enhanced service provider's own non-telecommunications service offerings. ONA unbundling is generically different than Section 251(c) unbundling, by which common carriers purchase network facilities and functions to incorporate into their own telecommunications service offerings. As we discuss below, enhanced service providers may not order unbundled network elements under Section 251(c) of the Act.¹³ The only way enhanced service providers can obtain access to Section 251(c) unbundled elements is by affiliating with a competitive common carrier (competitive local exchange carrier or "CLEC") or by purchasing services constructed by a CLEC using such unbundled elements. Enhanced service providers have no ability to purchase the unbundled elements provided for in Section 251(c) of the Act directly from a BOC itself. Thus, subject to two caveats, Qwest submits that the existence of Section 251(c) unbundling opportunities does not, by itself, obviate the necessity that ONA services be made available to enhanced service providers in the manner which best meets their needs. The caveats are:

- Qwest has seen little interest in the purchase or development of new ONA services over the past years.¹⁴ In the past two years, Qwest has had three requests for new unbundled ONA services. Two of these services were not technologically feasible. The third is being processed at this time, and Qwest anticipates that it can be offered in the manner requested by the enhanced service provider. Thus, while the concept of additional service unbundling

¹³ See page 10, *infra*.

¹⁴ See page 13, *infra*.

pursuant to the ONA rules is a good one in theory, it has been Qwest's experience over the past several years that enhanced service providers are not actively seeking new ONA services. However, as is discussed below,¹⁵ Qwest has developed an array of Internet access services which it markets to enhanced service providers. These services, while not developed or deployed in response to requests for unbundled basic service elements under open network architecture, are nevertheless in high demand by enhanced service providers.

- In a somewhat indirect way, the existence of CLECs, including those which purchase Qwest's unbundled network elements under Section 251(c) of the Act, furthers the economic incentive of Qwest to continue to develop service offerings which are useful to the enhanced service community. This is simply because, when an enhanced service provider purchases an array of services from Qwest, Qwest is generally better off economically than would have been the case if the enhanced service provider had purchased basic network services from a CLEC, even one whose own services were predicated on unbundled network elements provided under Section 251(c) of the Act. In other words, the ability of CLECs to offer services to enhanced service providers via unbundled network elements purchased under Section 251(c) of the Act provides an economic incentive for ILECs to develop attractive offerings for enhanced service providers in order to retain them as direct customers on the ILEC networks.

3. Whether ONA has been effective in providing enhanced service providers with access to ILEC networks which they need, and, if not, how ONA can be modified to grant enhanced service providers this adequate access?

¹⁵ See page 12, *infra*.

As far as Qwest can determine, enhanced service providers are satisfied with services which Qwest offers and provides to them, or at least are committed to working with Qwest to ensure that Qwest's products are offered in a satisfactory manner. A description of the products which Qwest offers to ISPs is illustrative. These products, which form the heart of Qwest's Digital Subscriber Line ("DSL")-based products, have been developed and deployed with the intention of maximizing use by means of enabling the maximum number of enhanced service providers to use and market the service to their own customers.

For example, Qwest offers to ISPs Asynchronous Transfer Mode Cell Relay Service ("ATM CRS"), DS3 Service, Frame Relay Service ("FRS"), Megabit Service (DSL) which was recently updated to a new DMT technology service called Qwest DSL DMT, ISDN Digital Subscriber Line (IDSL) Service, Multiplexing, Self-Healing Network Services ("SHNS") and Synchronous Service Transport ("SST"). All of these services are available to ISPs as well as for any other customer through Qwest's tariffs.

From the perspective of Qwest the enhanced service provider provides a variety of enhanced services, primarily Internet-based services, outside of the region where Qwest is the ILEC. Qwest's experience with obtaining necessary inputs from ILECs in other regions has indicated that ILECs are providing meaningful responses to Qwest's requests for services which it uses to provide Qwest's enhanced services. The ILECs are willing to work with the enhanced service providers to develop and deploy those services requested where feasible.

4. Whether Section 251 unbundling rights should be made available to ESPs?

This issue was addressed in Qwest's March 27, 1998 Comments and April 23, 1998 Reply Comments in this docket.¹⁶ The Telecommunications Act of 1996 is very clear -- Section 251(c) unbundling rights are available only to those entities which utilize ILEC facilities to provide carrier services -- that is, to serve the public or a portion of the public on a non-discriminatory basis. As an enhanced service provider does not undertake to make such an offering to the public, it is not entitled to the rights of common carriers under the Act. Unbundling under Section 251(c) of the Act, which entails releasing control over ILEC facilities to the purchasing carrier, is simply not authorized for those who do not commit themselves to operate on a common carrier basis.¹⁷

5. Whether basic services (defined pursuant to the FCC's Computer Rules) and telecommunications services (defined pursuant to the Telecommunications Act of 1996) are really two different names for the same thing?

There is no reason to try to differentiate between basic services and telecommunications services. These definitions, while different, describe transmission of the information of another on a common carrier basis. Difficulties often arise when the Commission tries to squeeze a preconceived regulatory notion into a definitional structure -- *e.g.*, declaring any net protocol conversion in a data transmission to make the entire transmission (of some providers) an

¹⁶ See, *e.g.*, Comments of U S WEST, Inc., filed herein on Mar. 27, 1998 at 34-35 and Reply Comments of U S WEST, Inc., filed herein on Apr. 23, 1998 at 10-13.

¹⁷ We need not elaborate on this point here, because it is not certain that this position is opposed. However, even a cursory study of the procedures established for carriers to obtain Section 251(c) unbundled elements pursuant to Section 252 of the Act demonstrates that it would be quite impossible for the standards and processes of Section 252 of the Act to apply to enhanced service providers.

enhanced service¹⁸ or trying to differentiate between telecommunications and telecommunications services under the Act.¹⁹ But the problems caused by distorting definitions to meet regulatory predilections do not derive from any differences between the concepts of basic services under the *Computer Rules* and telecommunications services under the Act.

This said, it is important that the Commission not shy away from addressing the definitional anomalies which currently distort the marketplace. For example, the FCC's insistence that protocol processing in a data transport environment creates an enhanced service is causing havoc in many areas, especially because of the Commission's insistence that the provider of something called an enhanced service may purchase interstate access services at lower rates than the provider of basic services.²⁰ In the context of this proceeding, the Commission's failure to recognize the fundamental identity of basic telecommunications services offered to enhanced services providers by ILECs and the same services offered to enhanced service providers by cable television operators will prevent meaningful regulatory reform.²¹ But these and other definitional problems do not derive from any definitional differences between

¹⁸ See In the Matter of Communications Protocols under Section 64.702 of the Commission's Rules and Regulations, Memorandum Opinion, Order, and Statement of Principles, 95 FCC 2^d 584 (1983).

¹⁹ See In the Matter of Federal-State Joint Board on Universal Service, Report to Congress, 13 FCC Rcd. 11501, 11508-09 ¶¶ 14-15, 11516-27 ¶¶ 33-52 (1998).

²⁰ This is the so-called "ESP exemption" from access charges. See, e.g., In the Matter of Access Charge Reform, First Report and Order, 12 FCC Rcd. 15982, 16131-35 ¶¶ 341-48 (1997); In the Matter of Amendment of Part 69 of the Commission's Rules Relating to the Creation of Access Charge Subelements for ONA, Report and Order & Order on Further Reconsideration & Supplemental Notice of Proposed Rulemaking, 6 FCC Rcd. 4524, 4534-35 ¶¶ 54-65 (1991).

²¹ See Comments and Reply Comments of Qwest Communications International Inc., filed on Feb. 27, 2001 and Mar. 13, 2001, In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability, at 2-3 and 3-6, 7-8, respectively.

terms meant to describe the same thing, which is the case with the definitions of basic services and telecommunications services.

6. Whether there are adequate CEI plans in place for DSL services?

Qwest's Internet Access CEI Plan lists DSL services as ONA services available to enhanced service providers. See the Qwest Web Site at the following address for details: www.qwest.com/about/policy/docs/cei.html. For the most part, as far as can be determined, ISPs utilize Qwest's DSL services for their provision of Internet access service. Qwest is comfortable that its efforts to advise ISPs about the DSL services which are available to them are achieving the desired results -- ISPs are aware of the DSL services which Qwest offers and are purchasing those services.

7. Whether the current annual and semi-annual reporting requirements for ONA services are adequate and/or necessary?

As the Commission is aware, the annual and semi-annual ONA reporting requirements are extremely burdensome and time-consuming to accumulate and produce. In its April 8, 1996 Comments in CC Docket No. 96-23, In the Matter of Revision of Filing Requirements, Qwest (as U S WEST Communications, Inc. then) made a number of suggestions on how the ONA filing requirements could be streamlined and simplified (*see* pages 10-19). A copy of the pertinent pages of this filing is appended hereto as ATTACHMENT A. The Commission has not yet acted on these suggestions. They are more valid today than when they were submitted five years ago.

Our point is not that the Commission should abandon legitimate efforts to monitor and enforce the ONA and CEI rules. It is just that it is impossible to tell what the FCC does with these reports when it receives them, and whether they provide any valuable information at all. We suggest that, if the Commission were to adopt the suggestions made in Attachment A, the

process would be greatly simplified and the Commission would have pertinent enforcement information in a format which is more useful to the Commission itself.

8. Whether ILECs have received requests for ONA services over the past three years?

Qwest has received three requests for a new ONA service under the 120-day processing procedures implemented by Qwest. These requests, and their disposition, are as follows:

- In 1999, Qwest responded to a 1998 request for Simultaneous Delivery of Caller ID in two different locations. Qwest advised the requestor that the service was not technically or cost feasible to develop. It is currently classified as Category 5 -- No Further Activity Planned.²²
- In 2000, Qwest received one request through the 120-day process. The capability requested was for Mechanized Systems for Call Forward Busy Line/Don't Answer and Message Waiting Indicator ("MWI") on end-user lines that provide ordering, error correction, service information, area code/prefix data and billing/auditing of Basic Service Elements and Complimentary Network Services ordered on behalf of end users. Qwest advised the requestor that the service was not technically or cost feasible to develop. It is currently classified as Category 5 -- No Further Activity Planned.²³
- So far in 2001, Qwest has received one request through the 120-day process. The request was for a voice feature, Call Forwarding Busy Line/Don't Answer in a type of office where the service was not previously available. Qwest recently advised the customer that the service will be available to order in the offices requested at the end of April, 2001.

²² See April 15, 2001 Annual ONA Report of Qwest Corporation.

²³ See *id.*

9. Whether there is a way to make ONA rules, including rules adopted in this proceeding, more “self enforcing?”

Qwest has not had any reason to believe that the ONA process is not working. Should there be complaints about an ILEC’s ONA compliance, the Commission should stand ready to process these complaints expeditiously, either under the standard complaint rules or the “rocket docket” complaint process adopted by the Commission.²⁴

10. Whether there are any developments in the Internet marketplace which should be considered in reevaluating the ONA rules?

The primary development in the Internet marketplace which is pertinent to this proceeding is the continued growth of cable modem service as the dominant provider of transmission service between ISPs and end-user customers. It is absolutely vital that the Commission harmonize the ONA rules (and whatever counterparts apply to cable modem services) in order that the Internet access industry not be bogged down in a welter of regulatory signals which impede normal economic growth. There is simply no basis in law or logic for a situation where the dominant provider of transmission services to ISPs remains essentially unregulated (in addition to maintaining systems which are often, for all intents and purposes, closed systems), while the secondary players in the market are regulated based on the pretense

²⁴ 47 C.F.R. § 1.720 *et seq.*

that the dominant players do not exist. Harmonization of the regulation of the transport underlying Internet access is absolutely vital.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Ross Dino, do hereby certify that I have caused 1) the foregoing **COMMENTS OF QWEST CORPORATION** to be filed electronically with the FCC by using its Electronic Comment Filing System, and 2) a copy of the **COMMENTS** to be served, via hand delivery, upon the person/entity listed on the attached service list.

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April 16, 2001

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ATTACHMENT A

Before the
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Washington, DC 20554

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OFFICE OF THE
SECRETARY

In the Matter of

Revision of
Filing Requirements

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CC Docket No. 96-23

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SUMMARY

Under the auspice of the President's Regulatory Reform Initiative, the Commission has recommended eliminating or reducing the filing frequency of a number of currently required reports. U S WEST strongly supports this action and applauds the Commission for moving swiftly to eliminate unnecessary reporting by telecommunications carriers. U S WEST implores the Commission to go even further and eliminate additional unnecessary and non-essential reporting requirements and reduce the filing frequency of other reports. U S WEST also urges the Commission to attach sunset provisions to reporting requirements, automatically eliminating the requirements after an express period of time, unless extended for good cause.

As the telecommunications industry moves forward in the dawn of a fully competitive era, it is important that prior regulatory paradigms transition, as well. The regulations and reporting requirements previously considered necessary in a monopoly environment have no place in the future. The Commission has previously shown its leadership through the recognition of the changes taking place and its willingness to adapt its regulatory approach to those changes (e.g., Price Cap regulation). The Commission can continue to demonstrate such leadership by moving quickly to eliminate or reduce regulatory requirements and barriers which serve only to impede the transition to a fully competitive marketplace. The action taken in this docket is an important step in that direction.

cured credit to federal political candidates, annual reporting appears to be sufficient to carry out the presumed intention of this particular provision of the Campaign Act of 1971; that is, to provide public information and oversight of any such activities. More frequent reporting would not appear to provide significant additional benefit. As the particular language of the law does not limit the Commission in maintaining its own rules with respect to issues therein, U S WEST would support a reduced filing requirement for this report.²²

IV. U S WEST PROPOSES THAT THE COMMISSION ALSO ELIMINATE OR REDUCE THE REPORTING FREQUENCY FOR OTHER REPORTS WHICH ARE CURRENTLY REQUIRED

As stated previously, U S WEST fully supports the Commission's efforts to reduce or eliminate reporting requirements for regulated carriers. However, U S WEST believes that the Commission should go further by eliminating additional unnecessary and non-essential reporting requirements and by modifying the filing frequency of other reports. Below, U S WEST lists additional reports for the Commission's consideration and proposes specific action regarding each report.

²² "Section 451. Extension of credit by regulated industries; regulations

"The Secretary of Transportation, the Federal Communications Commission, and the Surface Transportation Board shall each maintain[,] its own regulations with respect to the extension of credit, without security, by any person regulated by such Secretary under subpart II of part A of subtitle VII of title 49, United States Code [49 USCS §§ 41101 et seq.], or such Commission or Board, to any candidate for Federal office, or to any person on behalf of such a candidate, for goods furnished or services rendered in connection with the campaign of such candidate for nomination for election, or election, to such office." 2 USC § 451.

A. All ARMIS Reports Are Required To Be Filed Annually Under
The Provisions Of The Telecommunications Act Of 1996

Although the Commission has only specifically listed the ARMIS 43-05 Report in this docket, it has acknowledged in the Implementation Order that the 1996 Act requires the Commission to permit common carriers to file all ARMIS reports, including 43-01 and 43-06, on an annual basis.²³ It further stated that “[a]t a later date, the Bureau will provide further guidance on necessary changes to form and content of the ARMIS quality of service report, and other ARMIS reports, in light of the Telecommunications Act of 1996.”²⁴ The Commission should consider those issues concurrently with this docket in the interest of time and resources. The 1996 Act is clear and specific on this point. While the Commission may later choose to modify the content of those reports, it should act now to reduce the filing requirement consistent with the statutory provisions of the 1996 Act.

B. The Commission Should Also Review The Filing
Requirements For A Number Of Reports Related
To Open Network Architecture (“ONA”)

The Commission’s implementation of ONA also imposed a significant number of reporting requirements for common carriers. Here again, at the time of implementation the Commission was concerned about many issues regarding this new regulatory structure and the competitive impacts the ONA rules would have. It has

²³ Implementation Order ¶¶ 3-4, discussing the application of § 402(b)(2)(B) of the 1996 Act.

²⁴ Id. ¶ 5.

now been 10 years since the inception of ONA.²⁵ The Commission has had significant opportunity to review the process both through various proceedings and through the carriers' submissions of detailed ONA reports. As has been the case with other issues, and based upon the record evidence, the Commission can conclude that many of its initial concerns have not materialized. The Commission can therefore also modify the filing requirements for ONA reports as it has proposed in other areas. Below, U S WEST provides a list of current ONA reports and proposed filing requirement modifications for the Commission's consideration.²⁶

Semi-Annual Report:

The Commission required each BOC to do the following by March 31, 1992, and requires the same information be filed every six months (U S WEST's most recent report was filed on March 29, 1996):²⁷

- (1) Work through the Information Industry Liaison Committee ("IILC") to develop one consolidated nationwide matrix of BOC ONA services and state and federal ONA tariffs, and file the matrix with the Commission.
- (2) File computer diskettes and print-outs of data regarding state and federal tariffs.

²⁵ In the Matters of: Amendment of Sections 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry); and Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Thereof; Communications Protocols under Section 64.702 of the Commission's Rules and Regulations, Report and Order, 104 FCC 2d 958 (1986).

²⁶ By this filing, U S WEST is not proposing to make any changes to the current ONA non-structural safeguards, only to some of the overly-burdensome ONA reporting requirements.

²⁷ In the Matter of Filing and Review of Open Network Architecture Plans, Memorandum Opinion and Order, 6 FCC Rcd. 7646 (1991) ("BOC ONA Further Amendment Order").

- (3) File a printed copy and computer diskette of the ONA Services User Guide. Diskettes are currently filed directly with the Common Carrier Bureau ("CCB") Policy Division.
- (4) File updated information contained in Appendix A of the January 31, 1991 Cross Reference Guide on ESP requests received and how they were addressed by the BOCs with details and matrices.
- (5) File updated information contained in Appendix B of the January 31, 1991 Cross Reference Guide on BOC responses to the requests and matrix.

U S WEST recommends that the Commission eliminate the filing of all paper documents relating to the ONA Services User Guide, Appendices A and B of the 1/31/91 Cross-Reference Guide, and the National Tariff Reference Matrix. The ONA Services User Guide will continue to be updated by the IILC on a semi-annual basis and available through the IILC and the BOCs. The BOCs will file a diskette copy of the User Guide with the CCB Policy Division as a part of the Annual ONA Report on April 15 of each year. The information currently contained in Appendices A and B of the 1/31/91 Cross-Reference Guide would be handled by the IILC as described below.

Annual Report:

The Commission requires each BOC to report on the following, initially by April 15, 1992, and on or before April 15 annually thereafter:²⁸

- (1) Annual projected deployment schedules for its ONA services by type of ONA service (BSA, BSE, CNS, or ANS) in terms of percentage of access

²⁸ Id. at 7649 n.8, 7677-79, Appendix B.

lines served system-wide and by market-area. The April 15, 1992, report should cover the years beginning July 1, 1993, 1994, and 1995. Subsequent reports should cover the three year period for the three corresponding years.

All existing BSAs, BSEs, and CNSs will continue to be demonstrated in the annual filing in the ONA Services User Guide as discussed above. As the information contained in this report is now stable and duplicative of information filed in other ONA-related reports, the Commission should move to make the April 1996 filing the last required filing for this report.

- (2) New ONA service requests from ESPs and their disposition, and disposition of ONA service requests that have previously been designated for further evaluation.

U S WEST recommends that carriers continue reporting annually on the disposition of new ONA service requests.

- (3) Those ONA service requests previously deemed technically infeasible, and their disposition.

U S WEST believes that all technically infeasible requests that are not currently resolved by any BOC could be summarized and presented to the IILC. If there is interest by the ESP community, this might result in the development of one or more issues in the IILC. The IILC issue and 120-day-request processes are both available to all interested ESPs for both national and regional requests, respectively.

- (4) SS7, ISDN, and IN projected deployment in terms of percentage access lines served system-wide and on a market-area basis. SS7 data should be reported by TR 317 and TR 394, ISDN data by BRI and PRI, and IN data by release number or other designation by type.

For this report, U S WEST believes that the IILC could create an informational issue to determine if equivalent information is available via another report, e.g., the annual infrastructure report. The IILC could compare and contrast all other report(s) information and provide its findings to the Commission for its review. If this information is available in another report, and acceptable to the Commission, the Commission should move to relieve the BOCs of this reporting requirement.

- (5) New ONA services available though SS7, ISDN and IN, and plans to provide these services.

See U S WEST's response to item 2 above. As this item is duplicative, the Commission should move to make the April 1996 filing the last required filing for this report.

- (6) Progress on the efforts in the IILC on continuing activities for the implementation of service-specific and long-term uniformity issues.

The annual IILC Report Card is normally available at the second quarter IILC meeting each year. This Report Card is also available in the minutes from these meetings to all subscribers of the ATSI-generated document. The IILC will continue to require this Report Card for as long as the IILC views this document as a value to the ESP community. Since this information is made available by the

IILC on a voluntary basis, the Commission should move to make the April 1996 filing the last required filing for this report.

- (7) Progress in providing billing information including BNA, line-side CNI or possible CNI alternatives, and call detail services to ESPs.

All BOC information regarding BNA, CNI, and call detail services have matured and the information is stable. The IILC has had six issues regarding these topics: 001 - Uniform Delivery of Calling Number Identification ("CNI"); 015 - Information and Delivery Mechanisms for ESP Billing; 017 - Uniform Delivery of Line Side CNI in the Near Future; 018 - Ability to Control CNI Delivery; 024 - Calling Party Identification ("CPID") Anonymity Privacy; and 041 - Delivery of Billing Information and Called Number to ESPs Utilizing Non-Access Dialing Plan. Any new IILC issues and all Commission reporting on these topics would result in a summary of the same information with minor updates. The Commission should move to make the April 1996 filing the last required filing for this report.

- (8) Progress in developing and implementing OSS services and ESP access to those services.

The information in this report has also matured and is stable. ESPs have not requested OSS capabilities for access services via either the IILC or the 120-day process for several years. Several IILC issues: 003 - ESP/Customer Access to RBOC Network Management Systems; 039 - ESP Needs for OSS Capabilities Associated with End-User Complementary Network Services; and 051- Procedures for Access to

OSSs in a Multi-Provider Environment, address the ESP access to OSS in complete detail. In addition to this mandated Commission item, the BOC members of the IILC have been providing, and continue to provide, via handout to the IILC members and in the IILC minutes, an annual OSS Matrix demonstrating currently available, planned, and future OSS functionality. The IILC will continue to require the OSS Matrix for as long as the IILC views this document as a value to the ESP community. The Commission should accept the IILC report as the replacement for this mandated item and move to make the April 1996 filing the last required filing for this report.

(9) Progress on the uniform provision of OSS Services.

U S WEST believes that the majority of this report concerns standards efforts in ANSI T1 standards bodies and OSS issue work being accomplished in the IILC. The work accomplished in these bodies is national in scope and publicly available. Therefore, the Commission should move to make the April 1996 filing the last required filing for this report.

(10) List of BSEs used in the provision of BOCs' own enhanced services.

Deployment of BSEs, and the related BSAs, has matured for all of the BOCs. The agenda for all IILC meetings includes a report from the TAG chairperson on any new ONA basic services made available by any BOC; also, this information will continue to be available in the ONA Services User Guide. Currently, all CEI plans

filed by the BOCs also contain this same information. The Commission should move to make the April 1996 filing the last required filing for this report.

New Technologies Report:

This information has been filed as a part of the 4/15 Annual Report. The Commission in its Memorandum Opinion and Order in CC Docket No. 88-2, released March 29, 1993, required the BOCs to "report annually on unbundling of new technologies arising from their own initiative, in response to requests by ESPs, or resulting from requirements imposed by the Commission."²⁹

Due to the interconnection provisions of the 1996 Act and the existence of competitive providers in most major markets, significant pressure now exists for industry movement toward what is technically feasible and competitively necessary to be unbundled in evolving technologies. Questions regarding safeguards will be driven by the type and quality of communication services requested and offered by competing LECs' networks. Competition and demand will drive network unbundling faster and in many more directions than an annual report will be able to accurately forecast. The need for a report which details these rapidly evolving changes has been substantially eliminated. Reporting on new technology changes is an unnecessary requirement which will serve only to slow down their actual implemen-

²⁹ In the Matter of Filing and Review of Open Network Architecture Plans, Memorandum Opinion and Order, 8 FCC Rcd. 2606, 2608 ¶ 10 (1993).

tation. The Commission should move to make the April 1996 filing the last required filing for this report.

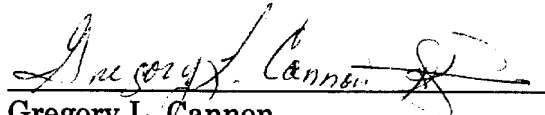
V. CONCLUSION

Based upon the foregoing, U S WEST requests that the Commission move swiftly to eliminate or reduce the filing requirements for the previously specified reports. The actions taken herein represent an important step in the Commission's move toward adapting its regulatory approach to the changing telecommunications marketplace. U S WEST supports the Commission's continued diligence in this and other regulatory reform dockets.

Respectfully submitted,

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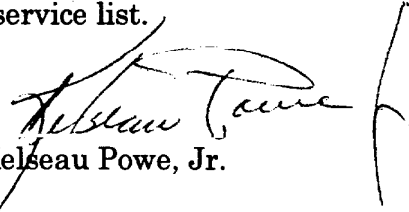
Its Attorney

Of Counsel,
Dan L. Poole

April 8, 1996

CERTIFICATE OF SERVICE

I, Kelseau Powe, Jr., do hereby certify that on this 8th day of April, 1996, I have caused a copy of the foregoing **COMMENTS** to be served via hand-delivery, upon the persons listed on the attached service list.



Kelseau Powe, Jr.